

AMENDED IN SENATE JUNE 9, 2005  
AMENDED IN ASSEMBLY MAY 26, 2005  
AMENDED IN ASSEMBLY MAY 3, 2005  
AMENDED IN ASSEMBLY APRIL 20, 2005  
AMENDED IN ASSEMBLY MARCH 30, 2005  
CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

**ASSEMBLY BILL**

**No. 117**

**Introduced by Assembly Member Cohn**

January 13, 2005

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~~An act to add Section 14133.06 to the Welfare and Institutions Code, relating to Medi-Cal. An act to amend Section 23575 of the Vehicle Code, relating to vehicles.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 117, as amended, Cohn. ~~Medi-Cal: treatment authorization requests: strategic plan. Vehicles: ignition interlock device.~~

*Existing law generally allows a court to require the installation of an ignition interlock device and to prohibit the operation of a motor vehicle unless the vehicle is equipped with a functioning, certified ignition interlock device for a person convicted of driving under the influence of alcohol or drugs, or both (DUI).*

*Under existing law, a person who is convicted of a DUI offense that occurred within 10 years of one or more separate violations of that offense that resulted in convictions, may apply to the Department of Motor Vehicles for a restricted driver's license that prohibits the person from operating a motor vehicle unless that vehicle is equipped with a functioning, certified ignition interlock device. This restriction*

*is required to remain in effect for at least the remaining period of the original suspension or revocation and until all statutory reinstatement requirements are met.*

*This bill would require a court to order a person who is convicted of a DUI offense that occurs within 10 years of 2 or more separate DUI violations that resulted in convictions to install an ignition interlock device on any vehicle that the person owns or operates and to prohibit that person from operating a motor vehicle unless the vehicle is equipped with a functioning, certified ignition interlock device. The bill would require that this restriction be for the rest of the person's life.*

*This bill would require the driver's license restriction, described above, to reflect the lifetime restriction.*

*Because, under existing law, it is a crime for a person with a restricted license, as described above, to operate a vehicle that is not equipped with a functioning, certified ignition interlock device, this bill would expand the scope of that crime, thereby imposing a state-mandated local program.*

*The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that no reimbursement is required by this act for a specified reason.*

~~Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Services and pursuant to which health care services are provided to qualified low-income persons.~~

~~Under existing law, one of the utilization controls to which services are subject under the Medi-Cal program is the treatment authorization request (TAR) process, which is approval by a department consultant of a specified service in advance of the rendering of that service based upon a determination of medical necessity.~~

~~This bill would require the department, in conjunction with appropriate stakeholders, to prepare a strategic plan, that includes the incorporation of the e-TAR system in use at several field offices into all field offices and a report on the progress of implementing an expedited TAR short form for emergencies to quickly respond to emergency situations, and to submit this plan to the Legislature on or before July 1, 2006.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: ~~no~~-yes.

*The people of the State of California do enact as follows:*

1     *SECTION 1. Section 23575 of the Vehicle Code is amended*  
2     *to read:*

3     23575. (a) (1) In addition to any other provisions of law, the  
4     court may require that a person convicted of a first offense  
5     violation of Section 23152 or 23153 to install a certified ignition  
6     interlock device on any vehicle that the person owns or operates  
7     and prohibit that person from operating a motor vehicle unless  
8     that vehicle is equipped with a functioning, certified ignition  
9     interlock device. The court shall give heightened consideration to  
10    applying this sanction to first offense violators with 0.20 percent  
11    or more, by weight, of alcohol in his or her blood at arrest, or  
12    with two or more prior moving traffic violations, or of persons  
13    who refused the chemical tests at arrest. If the court orders the  
14    ignition interlock device restriction, the term shall be determined  
15    by the court for a period not to exceed three years from the date  
16    of conviction. The court shall notify the Department of Motor  
17    Vehicles, as specified in subdivision (a) of Section 1803, of the  
18    terms of the restrictions in accordance with subdivision (a) of  
19    Section 1804. The Department of Motor Vehicles shall place the  
20    restriction in the person's records in the Department of Motor  
21    Vehicles.

22    (2) *In addition to any other provision of law, the court shall*  
23    *require a person convicted of a violation of Section 23152 or*  
24    *23153 and that offense occurred within 10 years of two or more*  
25    *separate violations of Section 23152 or 23153 that resulted in*  
26    *convictions to install an ignition interlock device on all vehicles*  
27    *that the person owns or operates, and to prohibit the person from*  
28    *operating any motor vehicle unless the vehicle is equipped with a*  
29    *functioning, certified ignition interlock device. The term of the*  
30    *restriction is for the rest of the person's life. The court shall*  
31    *notify the Department of Motor Vehicles, as specified in*  
32    *subdivision (a) of Section 1803, of this restriction in accordance*  
33    *with subdivision (a) of Section 1804. The Department of Motor*  
34    *Vehicles shall place the restriction in the person's records in the*  
35    *Department of Motor Vehicles.*

(3) The court shall require a person convicted of a violation of Section 14601.2 to install an ignition interlock device on any vehicle that the person owns or operates and prohibit the person from operating a motor vehicle unless the vehicle is equipped with a functioning, certified ignition interlock device. The term of the restriction shall be determined by the court for a period not to exceed three years from the date of conviction. The court shall notify the Department of Motor Vehicles, as specified in subdivision (a) of Section 1803, of the terms of the restrictions in accordance with subdivision (a) of Section 1804. The Department of Motor Vehicles shall place the restriction in the person's records in the Department of Motor Vehicles.

(b) The court shall include on the abstract of conviction or violation submitted to the Department of Motor Vehicles under Section 1803 or 1816, the requirement and term for the use of a certified ignition interlock device. The records of the department shall reflect mandatory use of the device for the term ordered by the court.

(c) The court shall advise the person that installation of an ignition interlock device on a vehicle does not allow the person to drive without a valid driver's license.

(d) A person whose driving privilege is restricted by the court pursuant to this section shall arrange for each vehicle with an ignition interlock device to be serviced by the installer at least once every 60 days in order for the installer to recalibrate and monitor the operation of the device. The installer shall notify the court if the device is removed or indicates that the person has attempted to remove, bypass, or tamper with the device, or if the person fails three or more times to comply with any requirement for the maintenance or calibration of the ignition interlock device. There is no obligation for the installer to notify the court if the person has complied with all of the requirements of this article.

(e) The court shall monitor the installation and maintenance of any ignition interlock device restriction ordered pursuant to subdivision (a) or (l). If a person fails to comply with the court order, the court shall give notice of the fact to the department pursuant to Section 40509.1.

(f) (1) (A) Pursuant to Section 13352, if a person is convicted of a violation of Section 23152 or 23153, and the offense

1 occurred within 10 years of ~~one or more a separate violations~~  
2 *violation* of Section 23152 or 23153 that resulted in a conviction,  
3 the person may apply to the Department of Motor Vehicles for a  
4 restricted driver's license pursuant to Section 13352 that  
5 prohibits the person from operating a motor vehicle unless that  
6 vehicle is equipped with a functioning ignition interlock device,  
7 certified pursuant to Section 13386. The restriction shall remain  
8 in effect for at least the remaining period of the original  
9 suspension or revocation and until all reinstatement requirements  
10 in Section 13352 are met.

11 *(B) Pursuant to Section 13352, if a person is convicted of a*  
12 *violation of Section 23152 or 23153, and the offense occurred*  
13 *within 10 years of two or more separate violations of Section*  
14 *23152 or 23153 that resulted in convictions, the person may*  
15 *apply to the Department of Motor Vehicles for a restricted*  
16 *driver's license pursuant to Section 13352 that prohibits the*  
17 *person from operating a motor vehicle unless that vehicle is*  
18 *equipped with a functioning ignition interlock device, certified*  
19 *pursuant to Section 13386. The restriction described under this*  
20 *subparagraph shall remain in effect for the rest of the person's*  
21 *life.*

22 (2) Pursuant to subdivision (g), the Department of Motor  
23 Vehicles shall immediately terminate the restriction issued  
24 pursuant to Section 13352 and shall immediately suspend or  
25 revoke the privilege to operate a motor vehicle of a person who  
26 attempts to remove, bypass, or tamper with the device, who has  
27 the device removed prior to the termination date of the  
28 restriction, or who fails three or more times to comply with any  
29 requirement for the maintenance or calibration of the ignition  
30 interlock device ordered pursuant to Section 13352. The privilege  
31 shall remain suspended or revoked for the remaining period of  
32 the originating suspension or revocation and until all  
33 reinstatement requirements in Section 13352 are met.

34 (g) A person whose driving privilege is restricted by the  
35 Department of Motor Vehicles pursuant to Section 13352 shall  
36 arrange for each vehicle with an ignition interlock device to be  
37 serviced by the installer at least once every 60 days in order for  
38 the installer to recalibrate the device and monitor the operation of  
39 the device. The installer shall notify the Department of Motor  
40 Vehicles if the device is removed or indicates that the person has

1 attempted to remove, bypass, or tamper with the device, or if the  
2 person fails three or more times to comply with any requirement  
3 for the maintenance or calibration of the ignition interlock  
4 device. There is no obligation on the part of the installer to notify  
5 the department or the court if the person has complied with all of  
6 the requirements of this section.

7 (h) Nothing in this section permits a person to drive without a  
8 valid driver's license.

9 (i) The Department of Motor Vehicles shall include  
10 information along with the order of suspension or revocation for  
11 repeat offenders informing them that after a specified period of  
12 suspension or revocation has been completed, the person may  
13 either install an ignition interlock device on any vehicle that the  
14 person owns or operates or remain with a suspended or revoked  
15 driver's license.

16 (j) Pursuant to this section, an out-of-state resident who  
17 otherwise would qualify for an ignition interlock device  
18 restricted license in California shall be prohibited from operating  
19 a motor vehicle in California unless that vehicle is equipped with  
20 a functioning ignition interlock device. An ignition interlock  
21 device is not required to be installed on any vehicle owned by the  
22 defendant that is not driven in California.

23 (k) If a person has a medical problem that does not permit the  
24 person to breathe with sufficient strength to activate the device,  
25 then that person shall only have the suspension option.

26 (l) This section does not restrict a court from requiring  
27 installation of an ignition interlock device and prohibiting  
28 operation of a motor vehicle unless that vehicle is equipped with  
29 a functioning, certified ignition interlock device for a persons to  
30 whom subdivision (a) or (b) does not apply. The term of the  
31 restriction shall be determined by the court for a period not to  
32 exceed three years from the date of conviction. The court shall  
33 notify the Department of Motor Vehicles, as specified in  
34 subdivision (a) of Section 1803, of the terms of the restrictions in  
35 accordance with subdivision (a) of Section 1804. The  
36 Department of Motor Vehicles shall place the restriction in the  
37 person's records in the Department of Motor Vehicles.

38 (m) For the purposes of this section, "vehicle" does not  
39 include a motorcycle until the state certifies an ignition interlock  
40 device that can be installed on a motorcycle. Any person subject

1 to an ignition interlock device restriction shall not operate a  
2 motorcycle for the duration of the ignition interlock device  
3 restriction period.

4 (n) For the purposes of this section, “owned” means solely  
5 owned or owned in conjunction with another person or legal  
6 entity. For purposes of this section, “operates” includes operating  
7 vehicles that are not owned by the person subject to this section.

8 (o) For the purposes of this section, bypass includes, but is not  
9 limited to, either of the following:

10 (1) Any combination of failing or not taking the ignition  
11 interlock device rolling retest three consecutive times.

12 (2) Any incidence of failing or not taking the ignition interlock  
13 device rolling retest, when not followed by an incidence of  
14 passing the ignition interlock rolling retest prior to turning the  
15 vehicles’s engine off.

16 *SEC. 2. No reimbursement is required by this act pursuant to*  
17 *Section 6 of Article XIII B of the California Constitution because*  
18 *the only costs that may be incurred by a local agency or school*  
19 *district will be incurred because this act creates a new crime or*  
20 *infraction, eliminates a crime or infraction, or changes the*  
21 *penalty for a crime or infraction, within the meaning of Section*  
22 *17556 of the Government Code, or changes the definition of a*  
23 *crime within the meaning of Section 6 of Article XIII B of the*  
24 *California Constitution.*

25 ~~SECTION 1. The Legislature finds and declares all of the~~  
26 ~~following:~~

27 ~~(a) The treatment authorization request (TAR) process used~~  
28 ~~under the Medi-Cal program was established as a utilization tool~~  
29 ~~to control health care costs and prevent fraud and unnecessary~~  
30 ~~care by requiring prior authority for certain treatments.~~

31 ~~(b) As part of the utilization control, Medi-Cal providers are~~  
32 ~~required to obtain prior authorization for a range of services that~~  
33 ~~may include, but are not limited to, certain inpatient care, nursing~~  
34 ~~facility services, home health services, medical transportation,~~  
35 ~~durable medical equipment, hospice, and physician services.~~

36 ~~(c) Over the years, delays in TAR reviews have created a~~  
37 ~~retroactive system.~~

38 ~~(d) TAR denials have increased in recent years resulting in~~  
39 ~~corresponding increases in appeals.~~

~~(e) The Medi-Cal Policy Institute examined the TAR process in its report, Medi-Cal Treatment Authorizations and Claims Processing: Improving Efficiency and Access to Care, and suggested a number of changes in the TAR system.~~

~~(f) A major finding in the report of the Medi-Cal Policy Institute states that the TAR process is manual, paper intensive, and complex. Other findings include:~~

~~(1) Processing approvals and denials under the Medi-Cal TAR system takes significantly longer than under prior authorization systems of other payers such as health maintenance organizations.~~

~~(2) There is no established timeframe for TAR turnaround, except for pharmacy TARs.~~

~~(3) TAR reports do not include certain categories such as deferred TARs for onsite visits and state hospital “paperless” TARs.~~

~~(4) In response, physicians interviewed for the report, stated that their Medi-Cal patients have been put at medical risk because of preauthorization delays caused by the following:~~

~~(A) Medi-Cal medical reviewers’ inability to evaluate urgent medical situations in a timely manner.~~

~~(B) Medi-Cal medical reviewers’ difficulty in determining whether or not certain procedures are medically necessary.~~

~~(C) Requests for additional information for justification.~~

~~(5) There is shifting of the processing of TARs from counties with high workloads, such as Los Angeles, to counties with low workloads.~~

~~(6) There is an e-TAR system in place to process TARs in a more timely manner.~~

~~SEC. 2. Section 14133.06 is added to the Welfare and Institutions Code, to read:~~

~~14133.06. (a) The Legislature finds and declares both of the following:~~

~~(1) The lack of uniform guidelines for processing treatment authorization requests (TARs) has resulted in inconsistent decisions in which one case may be approved while a similarly situated case may be denied.~~

~~(2) The need to change the TAR system was recognized by both the Medi-Cal Policy Institute in its report, Medi-Cal Treatment Authorizations and Claims Processing: Improving~~



1 ~~Efficiency and Access to Care, and in the 2005 California~~  
2 ~~Performance Review.~~

3 ~~(b) On or before July 1, 2006, the department shall prepare, in~~  
4 ~~conjunction with appropriate stakeholders, a strategic plan and~~  
5 ~~submit a report on the plan to the Legislature. The strategic plan~~  
6 ~~shall include both of the following:~~

7 ~~(1) The incorporation of the e-TAR system in use at several~~  
8 ~~field offices into all field offices by January 1, 2007.~~

9 ~~(2) A report on the progress of implementing an expedited~~  
10 ~~TAR short form for emergencies, by January 1, 2007, to quickly~~  
11 ~~respond to emergency situations.~~